

PRESIDENT MOUL: Senator Beutler.

SENATOR BEUTLER: Madam President and members of the Legislature, it is kind of out of the frying pan into the fire for committee amendments for me this morning because this one is probably more confusing than the last one. And, once again, the committee amendments are the bill, and let me say by way of preface that the whole point of LB 302 is to correct and make possible certain transfers of water applicable to agricultural land, to make it possible to correct, to correct the fact that the transfers could not or did not take place in accordance exactly technically with the law in the past. The statute we are dealing with in this particular case is 46-229.04, and, basically, what that statute says is that when water, surface water has been appropriated for use on particular land, if, in fact, the water is not put to a beneficial use or has ceased to be used for that purpose for a particular length of time, and the basic rule is three years, then that water right is automatically cancelled. And when the water right is cancelled, that further means that there is no water right there to be transferred to other land in the event that for a number of reasons it becomes imperative or impractical to apply the water to the same land and you need to apply it to other land. So, historically, what's happened out...what's happened in many areas of the state, but in particular in the Panhandle area of the state, is that certain districts have had water rights since the late nineteenth century, early twentieth century, and over that period of time, for a variety of reasons, water has, in fact, been transferred from the land to which the water right was originally attached to other land. And let me just give you an example of how that could happen, or a couple of examples of how that could happen so you can understand by example what we are seeking to do. Out west, for example, roads and a variety of utilities didn't get developed until well into the twentieth century, so let's say that there was a water right on a particular 40-acre tract that came into existence in 1910, for example, and that 40 acres was irrigated and then at some point in time a county road was developed and 33 feet perhaps of that 40-acre tract was turned into county road. Well, what the farmer may well have done is to take that water right, and what he was using on the county road apply it to other land. Well, under the law, as it existed before the year 1983, there was no legal way to transfer that water right from the land that became the county road to the new land the he or she was irrigating because we had no transfer law at that particular point in time,